

**IN THE COURT OF APPEALS OF THE STATE OF MISSISSIPPI**

**NO. 2018-KA-00671-COA**

**DONNIFER PETERS**

**APPELLANT**

**v.**

**STATE OF MISSISSIPPI**

**APPELLEE**

DATE OF JUDGMENT: 04/12/2018  
TRIAL JUDGE: HON. DAVID H. STRONG JR.  
COURT FROM WHICH APPEALED: WALTHALL COUNTY CIRCUIT COURT  
ATTORNEY FOR APPELLANT: OFFICE OF STATE PUBLIC DEFENDER  
BY: ERIN ELIZABETH BRIGGS  
ATTORNEY FOR APPELLEE: OFFICE OF THE ATTORNEY GENERAL  
BY: BARBARA WAKELAND BYRD  
DISTRICT ATTORNEY: DEE BATES  
NATURE OF THE CASE: CRIMINAL - FELONY  
DISPOSITION: AFFIRMED - 09/17/2019  
MOTION FOR REHEARING FILED:  
MANDATE ISSUED:

**BEFORE BARNES, C.J., GREENLEE AND LAWRENCE, JJ.**

**GREENLEE, J., FOR THE COURT:**

¶1. Donnifer Peters was convicted of first-degree murder, conspiracy to possess a firearm by a felon, and two counts of possession of a firearm by a felon. The trial court sentenced him to life for first-degree murder, five years for conspiracy to possess a firearm by a felon, and ten years for each of his felon-in-possession-of-a-firearm convictions, to be served consecutively, in the custody of the Mississippi Department of Corrections (MDOC).<sup>1</sup> Peters was also ordered to pay a \$10,000 fine and court costs. On appeal, Peters claims that the

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<sup>1</sup> Peters was sentenced as a non-violent habitual offender for his convictions for conspiracy and felon in possession of a firearm.

jury's verdict was against the overwhelming weight of the evidence. Finding no error, we affirm.

### **FACTS AND PROCEDURAL HISTORY**

¶2. Donnifer Peters and his girlfriend, Ashley Harvey Alford (“Harvey”), were indicted together in a multi-count indictment. The day before Peters’s trial, Harvey pled guilty to auto burglary, conspiracy to possess a firearm by a felon, two counts of possession of a firearm by a felon, and accessory after the fact to murder.

¶3. At Peters’s trial, Harvey testified that around 9 a.m. or 10 a.m. on August 5, 2016, she and Peters drove her maroon Chevrolet Malibu to Alonza Mays’s trailer. They drank vodka and used cocaine,<sup>2</sup> and then they went to McComb to buy more liquor. When they arrived in McComb, Mays went inside a store and purchased a pack of cigarettes, beer, and vodka.

¶4. Then they went to see Daniel Holmes (“DJ”), who worked at a dairy farm in Walthall County. According to Harvey, DJ had shown her a pistol and a shotgun a few days earlier, and Peters wanted to sell the guns for drugs. When they arrived at the farm, Harvey retrieved the guns from DJ’s truck and gave them to Peters. Then they drove to Lionel Holmes’s house.<sup>3</sup>

¶5. When they arrived at Lionel’s house, Peters and Mays got out of the vehicle. But Harvey testified that when they returned to the vehicle, Peters was upset and said something

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<sup>2</sup> Harvey testified that she also used Percocet, Trazodone, and “Xan Bars.”

<sup>3</sup> The record does not indicate whether Lionel and DJ were related.

about “this m[\*\*\*\*\*]f[\*\*\*\*\*]” and people keeping their mouths shut. Harvey testified that they continued driving, but at some point, Peters stopped the car because he “had to take a p[\*\*\*].” According to Harvey, Peters walked around the vehicle, and then she heard a gun fire. When she looked around, she realized that Mays was “gurgling” in the backseat. Harvey testified that Peters got back in the car and started driving again, but then Peters stopped and said, “Get that m[\*\*\*\*\*]f[\*\*\*\*\*] out of here.” So she pulled Mays out of the vehicle.

¶6. Harvey testified that they continued driving, but at some point, the car ran out of gas. So she and Peters began walking down Henry Smith Road. Harvey testified that Cindy Gonzales Zelaya picked them up and took them to “Ollie’s.” But after a while, Peters wanted to leave and accused Harvey of looking at Ollie. According to Harvey, Peters hit her, and then they went their separate ways. Harvey testified that Ashley Grubbs picked her up on the side of the road and took her to Melvin Bridge’s house.<sup>4</sup> Peters eventually showed up and mentioned “something about getting gas.” Harvey testified that Peters sold DJ’s pistol for drugs, but she did not know what happened to the shotgun.

¶7. Later that night, detectives questioned Peters and Harvey at Peters’s house. Peters stated that they had last seen Mays with “Pearl’s son,” and Harvey testified that she went along with Peters’s story because she was scared. Harvey also testified that she gave another statement the next day, but Peters told her what to say. On August 23, 2016, Harvey was

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<sup>4</sup> Bridges lived near Peters.

arrested on an unrelated charge, and law enforcement seized her vehicle. Harvey testified that she spoke with law enforcement again and named “Ron Dee” as a suspect. She explained that she was afraid of naming Peters because he was not in custody at the time, and she was concerned that he would harm her family. But on August 25, 2016, Harvey told law enforcement that Peters shot Mays. Harvey acknowledged that her statements were inconsistent; however, she testified that she was telling the truth at trial.

¶8. Mays’s fiancée, Mardina Peters, also testified.<sup>5</sup> According to Mardina, on August 5, 2016, she and Mays went to McComb so that Mays could cash a check and purchase cigarettes, beer, and a small bottle of vodka. Mardina testified that when they returned home, Mays visited with Peters and Harvey. They left in a Chevrolet Malibu around 11 a.m.

¶9. Lionel Holmes testified that around 3:30 p.m. or 4 p.m., Peters, his girlfriend, and Mays stopped by his house in a Malibu looking for drugs, but he told them to leave. Lionel admitted to previously being a drug dealer, but he testified that he was not at that time. According to Lionel, they came back a second time, and Mays got out of the backseat of the vehicle and said something to him. Peters then raised a black handgun, Lionel told them that he “wasn’t fooling with that,” and they drove away. Lionel admitted to initially telling investigators that he had not seen anyone that day because he did not want to be involved. But Lionel testified that he was telling the truth at trial and that he had no reason to lie.

¶10. Cindy Gonzales Zelaya confirmed that she gave Harvey and another person a ride on

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<sup>5</sup> Mardina had previously been married to Peters’s uncle.

August 5, 2016. Zelaya testified that she noticed a car on the side of Henry Smith Road and then saw Harvey and someone else walking. So she picked them up and dropped them off at Ollie's.

¶11. Ashley Grubbs also confirmed that she gave Harvey a ride on August 5. Grubbs testified that she and her husband were driving down Henry Smith Road when she saw Peters sitting in the driver's seat of a car. When they stopped, Peters asked them to pick up Harvey, who was about a mile away. Grubbs testified that when Harvey got in the vehicle, she was "freaked out" and asked to be dropped off at Melvin Bridge's house. Harvey also told Grubbs, "If anything happens to me[,] he just killed someone." Grubbs admitted to having a criminal history and prior drug problems, but she testified that she was not using drugs on August 5, 2016.

¶12. Shalonda Brister testified that Peters flagged her down on Henry Smith Road and said that he was out of gas. Brister testified that Peters was carrying something in a black garbage bag as well as "a long gun."<sup>6</sup> And Mike Ross testified that he took Peters to get gas for his car. Ross testified that he could not remember the exact date, but it occurred around the time of Mays's death.

¶13. Then Lance Falvey, a detective with the Walthall County Sheriff's Department, testified. Detective Falvey testified that at 5:43 p.m. on August 5, 2016, he was notified of

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<sup>6</sup> Brister admitted to having prior convictions, and she testified that she had received \$500 from Crime Stoppers.

a person in a ditch in Walthall County. When he arrived on the scene at 6:23 p.m., he observed that the victim was deceased and had a gunshot wound to the right side of his face.

¶14. While he was searching the area, Detective Falvey found a cell phone in the grass near the victim. The phone listed Mardina Peters as “Wifey,” so Detective Falvey went to her residence. Mardina identified the victim as Mays and told Detective Falvey that the last time she saw Mays was around 11 a.m. Mardina stated that he had been drinking and smoking with Peters and “that white girl” who drives a purple Chevrolet Malibu, and then they went to McComb.

¶15. Detective Falvey confirmed that he went to Peters’s house around 1 a.m. to question Peters and Harvey. According to Detective Falvey, they stated that Mays flagged down “Pearl’s son” in a Chevy Impala.<sup>7</sup> Then Mays got in the vehicle, and that was the last time they saw him.

¶16. Detective Falvey testified that he interviewed Peters and Harvey again on August 8, 2016.<sup>8</sup> Peters stated that he, Harvey, and Mays had been drinking, and then they went to McComb. After purchasing more to drink, Mays told Peters to stop the vehicle because he saw Pearl’s son in an Impala. Peters stated that he (Peters) got out of the vehicle and turned his back to use the bathroom. Meanwhile, Mays got in the Impala and left. Harvey’s

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<sup>7</sup> Pearl and Mardina were sisters.

<sup>8</sup> Peters’s statement was audio recorded and played for the jury at trial. He gave a similar statement on August 25, 2016, which was also audio recorded and admitted into evidence at trial.

statement was similar. Detective Falvey testified that he later determined that one of Pearl's sons was mentally impaired and did not drive, another lived in New Orleans, and another was away at school.

¶17. According to Detective Falvey, Harvey was arrested on August 20, 2016. Detective Falvey testified that on August 23, 2016, Harvey stated that Ron Dee was responsible for Mays's death. But Detective Falvey testified that Harvey later admitted that she lied to the police.

¶18. According to Detective Falvey, on August 25, 2016, DJ reported that his Hi-Point .40 caliber semi-automatic pistol had been stolen by Harvey.<sup>9</sup> Chief Deputy Toney Rushing, with the Walthall County Sheriff's Department, testified that he saw DJ in possession of a gun prior to August 2016. And he testified that it was concerning to him because DJ was "very gull[i]ble." At trial, DJ confirmed that his guns had been stolen. According to DJ, when Harvey asked to borrow his guns, he told her no. But then Harvey went inside his truck and put something under her shirt. DJ testified that two African American males were with Harvey when she took the guns, but he did not know who they were.

¶19. Then James Brumfield testified. In January 2017, Brumfield and Peters were incarcerated together. And according to Brumfield, one night while drinking prison wine, Peters confessed to the murder. Brumfield testified that, at first, Peters stated that he was not present when Mays was killed, but when Brumfield asked him directly, Peters said, "Yeah,

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<sup>9</sup> DJ later realized that his shotgun had been stolen as well.

I killed that m[\*\*\*\*\*]f[\*\*\*\*\*].” Brumfield also testified that on another occasion, Peters said, “The white girl did it.” But Brumfield testified that other people were around when Peters made that statement. Brumfield testified that he was not offered anything in exchange for his testimony but acknowledged that he was no longer in MDOC’s physical custody.

¶20. Dr. Lisa Funte, the medical examiner, testified that Mays’s cause of death was a gunshot wound, and the manner of death was homicide. According to Dr. Funte, Mays was likely shot at a distance greater than three-and-a-half feet. And Lori Beall, a forensic scientist specializing in firearms identification, testified that the projectile likely came from a Hi-Point .40 caliber gun. Kathryn Rodgers, a forensic DNA analyst, tested blood that was found on the back passenger seat of Harvey’s vehicle and determined that the blood matched Mays’s DNA.

¶21. Prior to the State resting its case-in-chief, both parties stipulated that Peters had previously been convicted of a felony. And after considering all of the evidence presented at trial, the jury found Peters guilty as charged.

## **DISCUSSION**

¶22. Peters claims that his first-degree murder conviction is against the overwhelming weight of the evidence. When reviewing a challenge to the weight of the evidence, “we will only disturb a verdict when it is so contrary to the overwhelming weight of the evidence that to allow it to stand would sanction an unconscionable injustice.” *Lloyd v. State*, 228 So. 3d 953, 956 (¶9) (Miss. Ct. App. 2017). The evidence must be viewed “in the light most

favorable to the verdict, and we must affirm unless the trial court abused its discretion in denying a new trial.” *Id.*

¶23. Peters asks this Court to assess the credibility of the witnesses who testified at trial. Specifically, Peters contends that neither Harvey nor Brumfield were credible witnesses. But this Court does not reweigh evidence, assess the witnesses’ credibility or resolve conflicts between evidence. *Little v. State*, 233 So. 3d 288, 289 (¶1) (Miss. 2017). “Those decisions belong solely to the jury.” *Id.*

¶24. Additionally, Peters contends that no physical evidence connected him to the crimes. We note that Mays’s blood was found in the backseat of the vehicle that both Harvey and Peters used. Nevertheless, this Court has upheld convictions in cases where there was no physical evidence. *See Sims v. State*, 127 So. 3d 307, 311 (¶14) (Miss. Ct. App. 2013). And our supreme court has held that even uncorroborated accomplice testimony may be sufficient to convict a defendant. *Jones v. State*, 203 So. 3d 600, 606 (¶11) (Miss. 2016). “This rule is inapplicable in those cases where the testimony is unreasonable, self-contradictory or substantially impeached.” *Id.* However, in this case, almost every detail of Harvey’s testimony was corroborated by other witnesses. And Brumfield testified that Peters confessed to the crime.

¶25. Considering the evidence presented, we do not find the verdict to be so contrary to the overwhelming weight of the evidence that to allow it to stand would sanction an unconscionable injustice.

¶26. **AFFIRMED.**

**BARNES, C.J., CARLTON AND J. WILSON, P.JJ., WESTBROOKS,  
TINDELL, McDONALD, LAWRENCE, McCARTY AND C. WILSON, JJ., CONCUR.**